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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 5101

Yaakov Bender

CONCILIATION AGREEMENT

This matter was initiated by a complaint filed by Donald F. McGahn, II for the National Republican Congressional Committee. The Federal Election Commission ("Commission") found reason to believe that Respondent Yaakov Bender knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

Actors

1. Yaakov Bender is the dean of Yeshiva Darchei Torah ("Yeshiva"), an incorporated private educational academy located in Far Rockaway, New York.

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2. Meyer Berman, a long-time donor to the Yeshiva, is president of M.A. Berman Co., a securities broker-dealer.

3. Rita Abrams, Shimon Dachs, Zev Bald, Lynne Gordon, Judah Harbater, Phyllis Lipschitz, Scott Marchuck, Pearl Neufeld, David Presser, Aron Rosenberg, Stewart Strickman, Zelda Volk, and Libby Yavne are employees of the Yeshiva.

4. Friends of Roger Kahn, Inc. ("Kahn Committee"), is the principal campaign committee for Roger Kahn, the Democratic nominee for Georgia's Seventh Congressional District in the 2000 election.

#### Applicable Law

5. Under the Federal Election Campaign Act of 1971, as amended (the "Act"), it is unlawful for corporations to make contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. It is also unlawful for corporate officers and directors to consent to such contributions or expenditures. 2 U.S.C. § 441b(a).

6. The Act further makes it unlawful for any person to make a contribution in the name of another, or for any person to knowingly permit his or her name to be used to make such a contribution. Moreover, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(iii).

#### Events Regarding Violations

7. Meyer Berman, a major fundraiser for Roger Kahn's campaign, asked Yaakov Bender to find fifteen people to contribute up to \$1,000 each to the Kahn Committee. Yaakov Bender, in turn, asked Rita Abrams, Shimon Dachs, Zev Bald, Lynne Gordon, Judah Harbater, Phyllis

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Lipschitz, Scott Marchuck, Pearl Neufeld, David Presser, Aron Rosenberg, Stewart Strickman, Zelda Volk, and Libby Yavne (collectively the "Yeshiva employee contributors") to contribute \$1,000 each to the Kahn Committee. Yaakov Bender represents he was unaware of any provisions of the Act and in particular the prohibition on making contributions in the name of another and, therefore, told the Yeshiva employee contributors that he would reimburse them for their contributions.

8. After the Yeshiva employee contributors gave Yaakov Bender their contribution checks, he wrote checks in the amount of \$1,000 from the Rabbi's Fund, a special Yeshiva account, to reimburse them for their contributions to the Kahn Committee. Yaakov Bender also wrote a \$1,000 check from the Rabbi's Fund to reimburse himself for his contribution to the Kahn Committee.

9. Yaakov Bender sent the contribution checks to Meyer Berman's office and Meyer Berman's secretary forwarded the checks to the Kahn Committee. The Kahn Committee reported the contributions in its 1999 year-end disclosure report.

10. On August 25, 2000, *The Atlanta Jewish Times* published an article about the Yeshiva employee contributors' contributions to the Kahn Committee. The article questioned whether Meyer Berman gave the Yeshiva employee contributors the money to make those contributions. The reporter who wrote the article interviewed Yaakov Bender.

11. Yaakov Bender states that immediately upon receiving the inquiry from the reporter, he contacted several members of the Yeshiva's board of directors. According to Yaakov Bender, some of the board members thought there was nothing improper about the contributions, as made, while other board members were unsure. Yaakov Bender also spoke to Meyer Berman,

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who told him the reimbursement arrangement was unlawful. Yaakov Bender asked Meyer Berman for help in getting the contributions back from the Kahn Committee. Meyer Berman's brother, Julius, subsequently contacted the Kahn Committee, which refunded the contributions made by Yaakov Bender and the Yeshiva employee contributors. All of the above-described events occurred prior to the receipt by Yaakov Bender of any notification from the Commission.

#### Violations

V. Respondent Yaakov Bender violated 2 U.S.C. §§ 441b(a) and 441f by assisting the Yeshiva in making contributions to the Kahn Committee in his name as well as the names of Rita Abrams, Shimon Dachs, Zev Bald, Lynne Gordon, Judah Harbater, Phyllis Lipschitz, Scott Marchuck, Pearl Neufeld, David Presser, Aron Rosenberg, Stewart Strickman, Zelda Volk, and Libby Yavne, and by consenting to those contributions. Respondent contends that the violation was not knowing and willful. Respondent will cease and desist from violating 2 U.S.C. §§ 441b(a) and 441f.

#### Civil Penalty

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Fourteen Thousand dollars (\$14,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

#### Other Provisions

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date all parties hereto have executed same and the Commission has approved the entire agreement.


IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

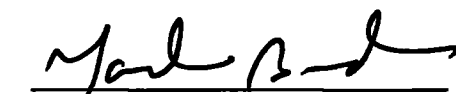
FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

BY:

  
Rhonda J. Vording  
Associate General Counsel  
for Enforcement

5/20/23  
Date

  
Yaakov Bender

3/26/03  
Date

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